

AMENDED IN SENATE SEPTEMBER 2, 2003

AMENDED IN SENATE JULY 14, 2003

AMENDED IN SENATE JULY 2, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1426

Introduced by Assembly Member Steinberg

(Principal coauthor: Senator Burton)

(Coauthor: Assembly Member Leno)

(Coauthors: Senators Ducheny, Dunn, and Machado)

February 21, 2003

An act to add and repeal Chapter 4.6 (commencing with Section 65965) of Division 1 of Title 7 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1426, as amended, Steinberg. Affordable housing: greater Sacramento region.

(1) Existing law requires the Department of Housing and Community Development, the California Housing Finance Agency, and various other state and local agencies to administer programs to provide affordable housing through incentives to developers, rental housing assistance, and loans or grants for downpayment, interest subsidy, relocation, veterans' programs, and other home purchase assistance. Existing law requires the housing element of a local general plan to identify adequate sites for affordable housing to be made

available through appropriate zoning and development standards, including those relating to density.

This bill, until January 1, ~~2012~~ 2011, would require, except as specified, every city and every county within the greater Sacramento region, as defined, that issues building permits for residential units to require or otherwise cause at least 5% of the aggregate amount of these new residential units to be affordable to, and occupied by, very low income households, and at least 5% of the aggregate amount of these new residential units to be affordable to, and occupied by, low-income households, as specified. It would require each city and each county in the region to prepare and submit to the Secretary for Business, Transportation and Housing an annual report with specified information and would require the secretary to, no later than ~~December 31~~ June 30, 2010, submit a report to the Legislature regarding the number of affordable residential units in the region. By increasing the duties imposed on local officials, this bill would impose a state-mandated local program.

This bill would, among other things, authorize the establishment of a joint powers agency to be known as the Greater Sacramento Regional Consortium and require the Department of Housing and Community Development to allocate specified funds to the region, as specified.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

The bill would authorize cities, counties, and the Department of Housing and Community Development to impose certain fees to support the implementation of the bill.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 4.6 (commencing with Section 65965)
is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.6. GREATER SACRAMENTO REGION HOUSING
DEVELOPMENT

Article 1. Affordable Housing Production

65965. (a) (1) On and after January 1, 2005, each city and
each county within the greater Sacramento region that issues
building permits for residential units shall require or otherwise
cause, by contract or covenants running with the land, at least 5
percent of the aggregate amount of these new residential units to
be affordable to, and occupied by, very low income households,
and at least 5 percent of the aggregate amount of these new
residential units to be affordable to, and occupied by, low-income
households. Each city and each county shall meet the requirements
of this subdivision either on an annual basis or, in the aggregate,
over a five-year period.

(2) Residential rental units required or caused to be affordable
pursuant to this section shall remain affordable for at least 30
years. The city or county shall have the right of first refusal to
purchase or repurchase for sale residential units that are affordable
pursuant to this section and shall recapture any subsidy at the time
of sale. The home seller shall retain the amount that represents the
value of improvements and the seller's proportionate share of
appreciation. Any recaptured subsidy shall be segregated and used
strictly for residential development at the same income level as, or
at a lower income level than, the income category of the
development from which the subsidy was recaptured.

(3) A city or county may count the following residential units
toward not more than 20 percent of their requirements under this
section, one-half of which may be for the very low income

1 requirement and one-half of which may be for the low-income
2 requirement:

3 (A) Substantially rehabilitated units that are certified for
4 occupancy after January 1, 2005.

5 (B) Residential units affordable to, and occupied by, extremely
6 low, very low, or low-income households pursuant to state and
7 federal regulatory agreements that are expiring or have expired if
8 the jurisdiction requires or otherwise causes these units to remain
9 or become affordable to, and occupied by, extremely low, very
10 low, or low-income households, in the same proportions with
11 respect to household income level that exists or existed under the
12 federal regulatory agreements. If a unit satisfies the requirements
13 of both subparagraph (A) and this subparagraph, the city or county
14 may count the unit only once toward satisfying the requirements
15 of paragraph (1).

16 (4) Newly constructed units affordable to, and occupied by,
17 households earning less than 30 percent of the area median
18 income, including, but not limited to, households that earn less
19 than 30 percent of the area median income who are occupants of
20 transitional housing where support services are regularly provided
21 under contract, or farmworker housing, may be counted toward the
22 requirements of this section, at a rate of two low-income units for
23 every unit affordable to, and occupied by, households earning less
24 than 30 percent of the area median income.

25 (5) Notwithstanding paragraph (3), a city or county in which at
26 least 60 percent of the housing stock ~~is more than 20 years old~~ *was*
27 *constructed prior to 1980*, as determined by the most recent
28 decennial census of the United States, may count substantially
29 rehabilitated residential units that are certified for occupancy after
30 January 1, 2005, toward not more than 30 percent of their
31 requirements under this section, one-half of which may be for the
32 very low income requirement and one-half of which may be for the
33 low-income requirement.

34 If the Secretary of the Business, Transportation and Housing
35 Agency determines that cities or counties in the greater
36 Sacramento region that comprise 80 percent of the region's
37 projected population growth have entered into a joint powers
38 agreement, or adopted an ordinance or other binding resolution, to
39 meet the requirements of this section prior to January 1, 2005, then

1 this section shall, notwithstanding any other provision, only apply
2 to those cities and counties.

3 (6) A county that has less than 25 percent of its total population
4 residing in the unincorporated area, as determined by the most
5 recent decennial census of the United States, may elect, by
6 resolution of its governing body, to make this chapter, or any
7 article or section within this chapter, inapplicable to proposed
8 residential unit subdivisions of less than five units. If the
9 governing body of a qualifying county adopts such a resolution,
10 any subdivisions of less than five units approved in that county on
11 or after January 1, 1999, shall not be counted as part of that
12 county's aggregate amount of new residential units as specified in
13 this section.

14 (b) Each city and each county in the greater Sacramento region
15 shall prepare and submit to the Secretary of the Business,
16 Transportation and Housing Agency an annual report and
17 assessment of its compliance with this section, to be submitted not
18 later than December 31, 2005, and December 31 of each
19 subsequent year. This report shall be submitted on forms prepared
20 by the secretary and shall conclusively demonstrate the city's or
21 county's compliance with this section. The first report submitted
22 pursuant to this subdivision shall document the total number of
23 new residential units constructed and the percentages made
24 affordable to and occupied by low-income and very low income
25 households, respectively, between January 1, 1999, and January 1,
26 2004. For a city or county that elects to meet the requirements of
27 this section in the aggregate over a five-year period, the report
28 shall also include a narrative description of how the jurisdiction
29 plans to meet the requirements over the five-year period. A
30 jurisdiction that elects to meet the requirements of this section over
31 a five-year period may, for purposes of its first ~~report, count~~
32 *report, do the following:*

33 (1) *Count* toward the requirements of this section the number
34 of building permits for residential units issued over a five-year
35 period that begins the year prior to the year that the requirements
36 of this chapter became applicable to the jurisdiction.

37 (2) *Count toward the requirements of this section the number*
38 *of building permits for affordable residential units issued as a part*
39 *of any development agreement that is currently in effect where*
40 *affordable residential units are a part of the development*

1 *agreement and the affordable residential unit permits were issued*
2 *not more than two years prior to the year that the requirements of*
3 *this chapter became applicable to the jurisdiction.*

4 (c) Copies of the report shall also be made available for the
5 general public at the city's or county's planning department, local
6 public libraries, and on its Web site, if any.

7 (d) No later than ~~December 31~~ June 30, 2010, the Secretary of
8 the Business, Transportation and Housing Agency shall report to
9 the Legislature, for each county and city in the greater Sacramento
10 region that is subject to this section, the total number of residential
11 units and the number of residential units affordable to very low or
12 low-income households for which building permits were issued
13 from January 1, 1999, to ~~June 30, 2010~~ December 31, 2009,
14 inclusive, and the number of residential units affordable to very
15 low or low-income households allocated to each county and city
16 for the same period pursuant to the Sacramento Council of
17 Governments' regional housing needs assessment.

18 (e) Nothing in this section shall be construed to diminish the
19 authority of counties to have their share of the regional housing
20 need reduced and reallocated to one or more cities within their
21 county pursuant to paragraph (5) of subdivision (c) of Section
22 65584.

23 (f) For purposes of this chapter, the following definitions
24 apply:

25 (1) "Greater Sacramento region" means the region
26 encompassing the total combined area of the Counties of El
27 Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba, excluding the
28 region defined in subsection (a) of Article II of Public Law 96-551
29 that is governed by the Tahoe Regional Planning Agency, as
30 described in Article III of Public Law 96-551.

31 (2) In order to be counted as "substantial rehabilitation," the
32 rehabilitation work on a unit shall meet the definition of
33 "substantial rehabilitation" in clause (iv) of subparagraph (A) of
34 paragraph (2) of subdivision (b) of Section 33413 of the Health
35 and Safety Code, and all of the following requirements:

36 (A) The rehabilitation was carried out or caused to be carried
37 out with public funds.

38 (B) The city or county has provided or caused to be provided
39 relocation assistance pursuant to Chapter 16 (commencing with
40 Section 7260) of Division 7 of Title 1 to any occupants temporarily

1 or permanently displaced by, for, or in connection with the
2 rehabilitation activity, including, but not limited to, any activity or
3 activities that have resulted in or will result in displacement of any
4 and all residents of the dwelling or dwellings, including, but not
5 limited to, any code enforcement activity.

6 (C) The local government required that any displaced
7 occupants would have the first right to reoccupy the rehabilitated
8 units.

9 (D) The rehabilitated units are affordable to, and occupied by,
10 the same or a lower level of income residents that the units were
11 affordable to prior to rehabilitation.

12 (3) “Affordable to, and occupied by” means units available at
13 affordable housing cost as defined by Section 50052.5 of the
14 Health and Safety Code and occupied by households in the income
15 levels required by this section for the time period specified by this
16 section, or where not specified, the longest feasible time not less
17 than specified in Section 33413 of the Health and Safety Code as
18 long as the time does not conflict with requirements of any state
19 or federal source of financing.

20 ~~(4) “Extremely low income” has the same meaning as set forth~~
21 ~~in Section 50106 of the Health and Safety Code.~~

22 ~~(5) “Very low income” has the same meaning as set forth in~~
23 ~~Section 50105 of the Health and Safety Code.~~

24 ~~(6) “Low income” has the same meaning as set forth in Section~~
25 ~~50079.5 of the Health and Safety Code.~~

26 ~~(7)~~
27 (4) “Low-income,” “very low income,” and “extremely low
28 income,” have the same meaning as set forth in Sections 50079.5,
29 50105, and 50106, respectively, of the Health and Safety Code,
30 except that for the purposes of this section, the income limits
31 established pursuant to those sections for Yuba and Sutter
32 Counties, shall be the same as the income limits established for
33 Sacramento County.

34 (5) “Residential unit” has the same meaning as “residential
35 structure” as set forth in Section 50099 of the Health and Safety
36 Code and includes manufactured homes as defined in Section
37 18007 of, and mobilehomes as defined in Section 18008 of, the
38 Health and Safety Code.

39 (g) A city or county may charge a fee, including, but not limited
40 to, a fee pursuant to Section 65104 to support the work of the

1 *planning agency, to reimburse it for costs incurred in*
2 *implementing this section. The legislative body of the city or*
3 *county shall impose any fee pursuant to Section 66016.*

4
5 Article 2. Incentives
6

7 65965.2. (a) Cities and counties in the greater Sacramento
8 region may establish a joint powers agency to be known as the
9 Greater Sacramento Regional Consortium. The consortium may
10 assist small communities to apply for state and federal housing
11 resources, cooperate with the federal Department of Housing and
12 Urban Development in programs for the use of federal HOME
13 Investment Partnership Act funds for nonentitlement jurisdictions
14 and Small Cities Community Development Block Grant Program
15 funds to facilitate the state's allocation of these funds to
16 nonentitlement jurisdictions, and assist in the creation of a
17 multicounty mortgage revenue bond authority.

18 (b) Notwithstanding any other provision of law, and only until
19 June 30, 2007, the Department of Housing and Community
20 Development shall allocate HOME Investment Partnership Act
21 funds authorized pursuant to Section 50896 of the Health and
22 Safety Code and federal Small Cities Community Development
23 Block Grant Program funds authorized pursuant to Section 50825
24 of the Health and Safety Code to the greater Sacramento region
25 directly by formula to each city or county that is subject to the
26 affordable housing production standard provided for in this
27 chapter, that chooses to receive funds directly rather than on a
28 competitive basis, and that is not entitled to receive those funds
29 pursuant to federal law. The allocation shall be based on federal
30 methodology for making allocations to entitlement jurisdictions.
31 However, if the annual aggregate amount of the allocations to
32 cities and counties that choose to receive funds directly, plus the
33 allocations made to cities and counties that elect to participate in
34 the competitive process exceeds the average of the historical
35 annual aggregate allocation to the region, then the annual direct
36 allocations shall be reduced on a pro rata basis to not exceed the
37 average of the region's historical annual aggregate allocation. For
38 January 1, 2007, to June 30, 2007, inclusive, the allocation shall
39 be 50 percent of the amount calculated pursuant to the previous
40 sentence. Any allocation made directly to a city or county pursuant

1 to this subdivision shall be used for housing, consistent with
2 federal and state law, and program regulations. To the extent
3 permitted by federal law, cities and counties may pool their
4 allocation resources for joint use through the consortium.

5 (c) In making funding awards for the CalHome program within
6 regions subject to the affordable housing production standard
7 provided for in this chapter and to cities and counties that meet the
8 production requirements of this section, the department shall give
9 equal priority to projects in revitalization areas and new growth
10 areas. In making funding awards for the Local Housing Trust Fund
11 Matching Grant Program within regions subject to the affordable
12 housing production standard provided for in this chapter, the
13 department shall not require a minimum allocation to its
14 applicants.

15 (d) The California Tax Credit Allocation Committee shall
16 ~~consider the greater Sacramento region as a single region for~~
17 ~~purposes of any geographic apportionment system. consider the~~
18 *greater Sacramento region as a single region for the purposes of*
19 *any geographic apportionment system.*

20 (e) *The department may implement the changes made by*
21 *subdivision (b) until June 30, 2007, using guidelines, during which*
22 *time those guidelines shall not be subject to the Administrative*
23 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*
24 *Part 1 of Division 3 of Title 2). The department may implement the*
25 *changes made by subdivision (c) for two years using guidelines,*
26 *during which time those guidelines shall not be subject to the*
27 *Administrative Procedure Act. The department may charge a fee*
28 *to local governments in the greater Sacramento region that choose*
29 *to receive funds directly rather than on a competitive basis*
30 *pursuant to subdivision (b) to support the work of the department*
31 *in implementing subdivision (b).*

32 65965.6. It is the intent of the Legislature in enacting this
33 chapter that any future state housing bond act contain an
34 appropriate set aside of funding for regions that have successfully
35 implemented the type of affordable housing production standard
36 created by this chapter.
37

Article 3. Contingency and Sunset

65965.8. Upon the request of any person or entity, the Secretary of the Business, Transportation and Housing Agency may reduce, suspend, or waive the requirements of this chapter at any time if he or she makes a finding, based on clear and convincing evidence, that either of the following conditions makes the requirements unattainable for cities and counties in the greater Sacramento region:

(a) A natural disaster affecting the region, as defined in Section 8680.4.

(b) State or federal housing funds identified in Sections 65965.2 and 65965.6 that are committed, allocated, and available to the region are not sufficient to fully fund the production standards provided in this chapter.

65965.9. It is the intent of the Legislature that neither this chapter nor any other provision of law or contract should be construed to require cities or counties within the greater Sacramento region to amend, modify, condition, cancel, suspend, void, alter, or change in any way development agreements or subdivision map act applications deemed complete prior to the effective date of this chapter for the purposes of meeting the requirements of this chapter.

65965.10. This chapter shall remain in effect only until ~~January 1, 2012~~ *January 1, 2011*, and as of that date is repealed, unless a later enacted statute that is enacted before ~~January 1, 2012~~ *January 1, 2011*, deletes or extends that date.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 1 of Article IV of the California Constitution due to the unique fiscal, jurisdictional, and public service dynamics in the greater Sacramento region.

~~SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000);~~

1 ~~reimbursement shall be made from the State Mandates Claims~~
2 ~~Fund.~~

3 *SEC. 3. No reimbursement is required by this act pursuant to*
4 *Section 6 of Article XIII B of the California Constitution because*
5 *a local agency or school district has the authority to levy service*
6 *charges, fees, or assessments sufficient to pay for the program or*
7 *level of service mandated by this act, within the meaning of Section*
8 *17556 of the Government Code.*

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